



Senate

General Assembly

File No. 696

February Session, 2008

Substitute Senate Bill No. 500

Senate, April 21, 2008

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HIGHWAY WORK ZONE SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2008*) (a) As used in this section
2 and section 2 of this act: (1) "Highway work zone" means an area of a
3 state highway where construction, maintenance or utility work is
4 being performed. Such work zone may be marked by signs, channeling
5 devices, barriers, pavement markings or work vehicles, and extends
6 from the first warning sign or high-intensity rotating, flashing,
7 oscillating or strobe lights on a vehicle to the "END ROAD WORK"
8 sign or the last temporary traffic control device; and (2) "highway
9 worker" means a person who is required to perform the duties of such
10 person's job on state bridges, state roads or in highway work zones,
11 including: (A) A person who performs maintenance, repair or
12 construction of state bridges, state roads, shoulders, medians and
13 associated rights-of-way in highway work zones; (B) a person who
14 operates a truck, loader or other equipment on state bridges, state roads
15 or in highway work zones; (C) a person who performs any other related

16 maintenance work, as required, on state bridges, state roads or in
17 highway work zones; (D) a state or local public safety officer who
18 enforces work zone-related transportation management and traffic
19 control; (E) a state or local public safety officer who conducts traffic
20 control or enforcement operations on state bridges, state roads,
21 shoulders, medians and associated rights-of-way; and (F) a state or
22 local public safety officer or firefighter, an emergency medical services
23 provider, or any other authorized person, who removes hazards from
24 state bridges, state roadways, shoulders, medians and associated
25 rights-of-way, or who responds to accidents and other incidents on
26 state bridges, state roads, shoulders, medians, associated rights-of-way
27 or in highway work zones.

28 (b) A person shall be deemed to commit the offense of
29 "endangerment of a highway worker" upon conviction of any of the
30 following while such person is operating a motor vehicle within a
31 highway work zone, as defined in subsection (a) of this section: (1)
32 Exceeding the posted speed limit by fifteen miles per hour or more; (2)
33 passing another vehicle; (3) failing to stop for a flagperson or failure to
34 obey traffic control devices erected for purposes of controlling the flow
35 of motor vehicles through such zone; (4) driving through or around
36 such zone in any lane not clearly designated for use by motor vehicles
37 traveling through or around such zone; (5) physically assaulting,
38 attempting to assault, or threatening to assault a highway worker with
39 a motor vehicle or other instrument; (6) intentionally striking, moving
40 or altering barrels, barriers, signs or other devices erected to control
41 the flow of traffic and protect highway workers and motor vehicle
42 operators, for any reason other than: (A) An emergency, (B) the
43 avoidance of an obstacle, or (C) the protection of the health and safety
44 of another person; or (7) committing any of the following offenses for
45 which points may be assessed against the owner of an operator's
46 license in accordance with regulations adopted by the Commissioner
47 of Motor Vehicles pursuant to section 14-137a of the general statutes:
48 (A) Leaving the scene of an accident; (B) careless and imprudent
49 driving; (C) operating without a valid operator's license; (D) operating
50 with a suspended or revoked license; (E) operating a motor vehicle

51 while under the influence of intoxicating liquor or any drug or both, as
52 defined in section 14-227a of the general statutes; or (F) committing
53 any felony which involves the use of a motor vehicle.

54 (c) No person shall be cited or convicted for endangerment of a
55 highway worker unless the act or omission constituting the offense
56 occurred when one or more highway workers were in the highway
57 work zone.

58 (d) Upon conviction or a plea of guilty for committing the offense of
59 endangerment of a highway worker, as defined in subsection (b) of
60 this section, provided no injury or death to a highway worker resulted
61 from such offense, a person shall be subject to a fine of not more than
62 one thousand dollars and shall have four points assessed against such
63 person's operator's license, in addition to any other penalty authorized
64 by law.

65 (e) A person shall be deemed to commit the offense of "aggravated
66 endangerment of a highway worker" upon conviction or a plea of
67 guilty for any offense set forth in subsection (b) of this section while
68 such person is operating a motor vehicle within a highway work zone,
69 as defined in subsection (a) of this section, and which results in the
70 injury or death of a highway worker. Upon conviction or a plea of
71 guilty for committing the offense of aggravated endangerment of a
72 highway worker, a person shall be subject to a fine of (1) not more than
73 five thousand dollars if such offense resulted in injury to a highway
74 worker, or (2) ten thousand dollars if such offense resulted in the death
75 a highway worker. Such person shall have twelve points assessed
76 against such person's operator's license and shall be subject to the
77 provisions of title 14 of the general statutes, regarding the suspension
78 or revocation of an operator's license, in addition to any other penalty
79 authorized by law.

80 (f) No person shall be cited or convicted for endangerment of a
81 highway worker or aggravated endangerment of a highway worker for
82 any act or omission otherwise constituting an offense under this
83 section if such act or omission resulted, in whole or in part, from

84 mechanical failure of such person's motor vehicle or from the
85 negligence of a highway worker or other person.

86 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) There is established a
87 Highway Work Zone Safety Advisory Council to make ongoing
88 recommendations to improve safety for workers, public safety officers
89 and motor vehicle operators in a "highway work zone", as defined in
90 section 1 of this act. The ongoing areas of study and review by the
91 council shall include: (1) Evaluation of current work design and safety
92 protocols; (2) survey of effective highway work zone design and safety
93 protocols in other states; (3) implementation of technology to improve
94 highway work zone safety; (4) use of public safety officers to improve
95 highway work zone safety; (5) availability of federal funding for
96 highway work zone training and enforcement; and (6) other issues the
97 council deems appropriate for improving highway work zone safety.

98 (b) The council shall be comprised of the following members: The
99 Commissioners of Transportation, Public Safety and Motor Vehicles, or
100 their designees; a representative from the state-wide union
101 representing Department of Transportation highway maintainers; a
102 representative from the state-wide union representing state police
103 officers; and a representative of private sector highway workers who
104 perform the duties of a "highway worker", as defined in section 1 of
105 this act.

106 (c) The council shall meet quarterly, or more often as needed, and
107 report its recommendations to the Commissioner of Transportation
108 and the joint standing committee of the General Assembly having
109 cognizance of matters relating to transportation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	New section

APP *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Department of Transportation	TF - See Below	See Below	See Below

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact: None**Explanation**

The bill increases the fines that may be imposed on any person who commits certain motor vehicle violations while in a highway work zone. It is anticipated that any revenue gain under the bill would be minimal on an annual basis.

The bill establishes a Highway Work Zone Safety Advisory Council but does not provide funding for this purpose.

The Out Years

The annualized ongoing fiscal impact identified above would remain relatively constant into the future since fine amounts are set by statute.

OLR Bill Analysis**sSB 500*****AN ACT CONCERNING HIGHWAY WORK ZONE SAFETY.*****SUMMARY:**

This bill creates two new offenses of (1) endangerment of a highway worker and (2) aggravated endangerment of a highway worker that apply when a driver commits certain acts in a highway work zone. It defines what constitutes a highway work zone and a highway worker, which generally includes both (1) people performing construction or maintenance activities and (2) public safety personnel working in the zone.

The bill also creates a Highway Work Zone Advisory Council to make ongoing recommendations to improve safety in highway work zones.

EFFECTIVE DATE: October 1, 2008

HIGHWAY WORK ZONE AND HIGHWAY WORKERS***Definition of “Highway Work Zone”***

The bill defines a highway work zone as an area of a state highway where construction, maintenance, or utility work is being performed. It allows, but does not require, such a zone to be marked by signs, channeling devices, barriers, pavement markings, or work vehicles. The highway work zone extends from the first warning sign or high intensity rotating, flashing, oscillating, or strobe lights on a vehicle to an “END ROAD WORK” sign or the last temporary traffic control device.

Definition of “Highway Worker”

Under the bill, a highway worker is anyone required to perform his job duties on state roads, state bridges, or in highway work zones. A

highway worker specifically includes:

1. someone who performs maintenance, repair, or construction of state bridges, state roads, shoulders, medians, and associated rights-of-way in highway work zones;
2. someone who operates a truck, loader, or other equipment on state roads and bridges or in highway work zones;
3. someone who performs any other related maintenance, as required, on state roads and bridges or in highway work zones;
4. a state or local public safety officer who enforces work zone-related transportation management and traffic control;
5. a state or local public safety officer who conducts traffic control or enforcement operations on state bridges and roads, shoulders, medians, and associated rights-of-way; and
6. a state or local public safety officer or firefighter, an emergency medical services provider, or any other authorized person who removes hazards from state roads and bridges, shoulders, medians, and associated rights-of-way, or who responds to accidents or incidents on state roads and bridges, shoulders, medians, associated rights-of-way or in highway work zones.

ENDANGERMENT OF A HIGHWAY WORKER

Endangerment

The bill creates the offenses of endangerment of a highway worker and aggravated endangerment of a highway worker. To commit the offense of endangerment of a highway worker, someone must be convicted for the following acts committed while in a highway work zone:

1. exceeding the posted speed limit by 15 miles per hour or more;
2. passing another vehicle;

3. failing to stop for a flag person or failing to obey a traffic control device erected for the purpose of controlling vehicle flow through the work zone;
4. driving through or around the zone in any lane not clearly designated for use by vehicles moving through or around the zone;
5. physically assaulting, attempting to assault, or threatening to assault a highway worker with a motor vehicle or other instrument;
6. intentionally striking, moving, or altering barrels, barriers, signs, or other devices that control traffic flow and protect highway workers and drivers for any reason other than an emergency, avoiding an obstacle, or protecting another person's health and safety; or
7. committing any of the following for which driver's license points may be assessed: leaving the scene of an accident, careless and imprudent driving, operating without a valid license, operating with a suspended or revoked license, operating while under the influence of alcohol or drugs, or committing a felony involving the use of a motor vehicle. (None of these acts currently appear to result in license points under the current points system regulations and Connecticut has no explicit careless driving statute.)

The bill makes endangerment of a highway worker essentially a secondary offense, that is, to be charged with it, there must first be a conviction for one of the specified acts committed in the highway zone. However, the bill does not explicitly make commission of these acts in a highway zone a violation of law and some of them, such as passing another vehicle, failing to stop when signaled by a flag person, and striking a cone, barrel, or other control device are not explicit violations of any law.

In order for someone to be cited or convicted for endangerment of a highway worker, there must be at least one highway worker in the highway work zone. If convicted, the offender is subject to a fine of up to \$1,000 and must be assessed four license points by the motor vehicle commissioner (see BACKGROUND).

Aggravated Endangerment

Under the bill, someone commits the offense of aggravated endangerment of a highway worker when he is convicted of any of the aforementioned acts in a highway work zone and a highway worker is killed or injured as a result. Conviction for the offense would result in a fine of up to \$5,000 if a highway worker is injured and up to \$10,000 if the worker is killed. The offender must also get 12 license points (which would result in an automatic license suspension under the license point regulations).

Exception

Someone cannot be cited or convicted for either of these offenses if his act or omission that otherwise would constitute an offense resulted, wholly or partially, from mechanical failure of his vehicle or negligence of a highway worker or another person.

HIGHWAY WORK ZONE SAFETY ADVISORY COUNCIL

The bill establishes a Highway Work Zone Advisory Council made up of the commissioners of transportation, public safety, and motor vehicles, or their designees; a representative from a statewide union representing the Department of Transportation (DOT) highway maintainers; a representative from the statewide union representing state police officers; and a representative of private-sector highway workers who perform highway worker duties as the bill defines them. However, the bill does not specify how the non-commissioner members of the council will be selected from their organizations or how one representative of all private-sector highway workers will be chosen.

The bill requires the council to make ongoing recommendations to

improve the safety for highway workers, public safety officers, and drivers in highway work zones. The ongoing areas of study and review the council must undertake include:

1. current work design and safety protocols,
2. effective highway work zone design and safety protocols in other states,
3. implementing technology to improve zone safety,
4. using public safety officers to improve zone safety and available federal funding for work zone training and enforcement, and
5. other issues the council deems appropriate.

The bill requires the council to meet at least quarterly and to report its recommendations to the transportation commissioner and Transportation Committee but specifies no schedule for making its recommendations.

BACKGROUND

Driver's License Points

The law requires the motor vehicle commissioner to adopt regulations establishing a driver's license point system. However, it prohibits the commissioner from assessing points under the regulation if the violator mails in payment to the Centralized Infractions Bureau and, thereby, chooses not to appear in court (CGS § 14-137a).

Operation Big Orange

Operation Big Orange is a joint project of the DOT and the State Police to monitor speeds of vehicles traveling through highway work zones, increase public awareness of dangers in highway zones, and to increase enforcement of speed limits in those zones.

BACKGROUND

Legislative History

The Senate referred the bill (File 217) to the Appropriations

Committee on April 3. The committee reported a substitute bill on April 11, deleting a provision providing a \$250,000 General Fund appropriation to the DOT for highway traffic enforcement, including expansion of "Operation Big Orange."

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/07/2008)

Appropriations Committee

Joint Favorable Substitute

Yea 48 Nay 0 (04/11/2008)